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10 **BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2010-520**

14 **ALLYL NG MCCLURE**
3827 Herbert Street, Apartment 1
15 San Diego, CA 91203

A C C U S A T I O N

16 **Registered Nurse License No. 708284**
17 **Nurse Practitioner License No. 18133**
Nurse Practitioner Furnisher License No. 18133

18 Respondent.

20 Complainant alleges:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
23 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
24 of Consumer Affairs.

25 2. On or about July 23, 2007, the Board of Registered Nursing issued Registered Nurse
26 License Number 708284 to Allyl Ng McClure (Respondent). The Registered Nurse license was
27 in full force and effect at all times relevant to the charges brought herein and will expire on
28 December 31, 2010, unless renewed. .

3. On or about May 7, 2008, the Board of Registered Nursing issued Nurse Practitioner License Number 18133 to Allyl Ng McClure (Respondent). The Nurse Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2010, unless renewed.

4. On or about September 17, 2009, the Board of Registered Nursing issued Nurse Practitioner Furnisher License Number 18133 to Allyl Ng McClure (Respondent). The Nurse Practitioner Furnisher License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2010, unless renewed.

JURISDICTION

5. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

6. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

7. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

8. Section 2725, subsection (b) (2) of the Code provides in pertinent part that a registered nurse may provide the following patient services:

Direct and indirect patient care services including, but not limited to. The administration of medication and therapeutic agents, necessary to implement a treatment, disease prevention, or rehabilitative regimen ordered by and within the scope of licensure of a physician, dentist, podiatrist or clinical psychologist, as defined by Section 1316.5 of the Health and Safety Code.

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1 9. Section 2761 of the Code states:

2 The board may take disciplinary action against a certified or licensed
3 nurse or deny an application for a certificate or license for any of the following:

4 (a) Unprofessional conduct, which includes, but is not limited to, the
5 following:

6 (1) Incompetence, or gross negligence in carrying out usual certified or
7 licensed nursing functions.

8

9 10. Section 2762 of the Code states, in pertinent part:

10 In addition to other acts constituting unprofessional conduct within the
11 meaning of this chapter it is unprofessional conduct for a person licensed under
12 this chapter to do any of the following:

13

14 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
15 unintelligible entries in any hospital, patient, or other record pertaining to the
16 substances described in subdivision (a) of this section.

17 REGULATORY PROVISIONS

18 11. California Code of Regulations, title 16, section 1442, states:

19 As used in Section 2761 of the code, 'gross negligence' includes an
20 extreme departure from the standard of care which, under similar
21 circumstances, would have ordinarily been exercised by a competent registered
22 nurse. Such an extreme departure means the repeated failure to provide nursing
23 care as required or failure to provide care or to exercise ordinary precaution in a
24 single situation which the nurse knew, or should have known, could have
25 jeopardized the client's health or life.

26 COST RECOVERY

27 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
28 administrative law judge to direct a licentiate found to have committed a violation or violations of
29 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
30 enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct-Gross Negligence)**

3 13. Respondent subjected her registered nurse, nurse practitioner license, and nurse
4 practitioner furnisher license(s) to disciplinary action under Code section 2761, subdivision (a)
5 (1), for gross negligence in that Respondent committed an extreme departure from the standard of
6 care which, under similar circumstances, would have ordinarily been exercised by a competent
7 registered nurse in her care of Patient 1 on December 5, 2007. The circumstances are as follows:

8 14. On or about December 5, 2007, while employed as a registered nurse at La Jolla
9 Rehabilitation and Nursing Center, Respondent violated a physician's orders for antibiotic
10 medication for Patient 1 in that Respondent administered the prescribed medication to Patient 1
11 by intramuscular (I/M) injection delivery route when the physician's orders provided for
12 administration by intravenous (I/V) delivery route, and without the prescribing physician's
13 knowledge or consent. Changing the route of administration of the medication was outside the
14 scope of her registered nursing license and within the scope of the physician's licensure.

15 15. On or about December 5, 2007, Respondent failed to properly document her
16 administration of the medication in Patient 1's medical records.

17 16. On or about December 5, 2007, Respondent falsified the medical records for Patient 1
18 in that Respondent changed the medication delivery route from "IV" to "IM" on the physician's
19 orders, without the prescribing physician's knowledge or consent.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct-Falsify Medical Records)**

22 17. Respondent subjected her registered nurse, nurse practitioner license, and nurse
23 practitioner furnisher license(s) to disciplinary action under Code section 2762, subdivision (e); in
24 that Respondent falsified the medical records for Patient 1, as described above in paragraphs 12
25 through 14 above, which are incorporated herein by reference.

26 **PRAYER**

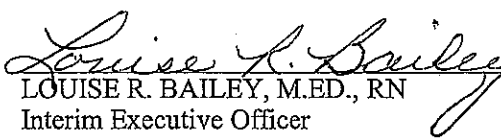
27 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
28 and that following the hearing, the Board of Registered Nursing issue a decision:

1 1. Revoking or suspending Registered Nurse License Number 708284, Nurse
2 Practitioner License Number 18133, and Nurse Practitioner Furnisher License, issued to Allyl Ng
3 McClure.

4 2. Ordering Allyl Ng McClure to pay the Board of Registered Nursing the reasonable
5 costs of the investigation and enforcement of this case, pursuant to Business and Professions
6 Code section 125.3;

7 3. Taking such other and further action as deemed necessary and proper.

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9 DATED: 4/20/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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